

 ORIGINAL

Approved by: _____

KRISTEN DORFMAN

Special Assistant United States Attorney

Before: THE HONORABLE MARTIN R. GOLDBERG
 United States Magistrate Judge
 Southern District of New York

21MAG4640

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 UNITED STATES OF AMERICA

 : MISDEMEANOR
 : COMPLAINT

-v-

 : Violation of
 : NYVTL 1192(2)(a)

TIMOTHY LEE

Defendant

 :
 : COUNTY OF OFFENSE:
 : ORANGE
 :

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 UNITED STATES DISTRICT COURT FOR THE
 SOUTHERN DISTRICT OF NEW YORK, ss.:

BENJAMIN DURHAM, being duly sworn, deposes and says
 that he is a Court Liaison, assigned to the United States
 Military Academy, West Point, New York, and charges as
 follows:

COUNT ONE

On or about March 8, 2020, on the West Point Military
 Reservation, within the special maritime and territorial
 jurisdiction of the United States, in the Southern District
 of New York, TIMOTHY LEE, the defendant, unlawfully,
 knowingly, and willfully did operate a motor vehicle upon a
 public roadway while intoxicated, to wit, the defendant
 operated a motor vehicle at Thayer Gate, West Point, New
 York, with a blood alcohol content of .19.

(New York State Vehicle & Traffic Law, Section 1192(2)(a))

The basis for the deponent's knowledge and for the foregoing charges are, in part, as follows:

1. I am a Court Liaison, assigned to the Provost Marshal Office, at the United States Military Academy, West Point, New York, which is located in the Southern District of New York.
2. Upon information and belief, on or about March 8, 2020, at approximately 11:58 p.m., SGT Wiese and SGT Gastello were dispatched to the Thayer Gate for an individual possibly driving while intoxicated. SGT Gastello stopped by Provost Marshall Office (PMO) to get the Portable Breathalyzer Test (PBT) and SPC Mckirryher advised that he was certified in Field Sobriety Test (FST) and Horizontal Gaze Nystagmus (HGN) and asked if he could conduct the testing. SGT Gastello agreed and brought SPC Mckirryher to Thayer Gate.
3. Upon arrival, SGT Wiese was speaking with the driver, identified as the defendant, Timothy Lee. SGT Wiese was advising the defendant to have a sit down on the cement block and relax. SPC Mckirryher approached the defendant and began to talk with him explaining that he would be conducting a few tests on him. The first test conducted and explained was the HGN. The defendant did not pass. The next test that was conducted was the walk and turn. As SPC Mckirryher was giving the instructions the defendant started without being told to. When properly instructed to start he failed to maintain heel to toe and extended his arms out to try and keep his balance. The next test administered was the one leg stand. The defendant was unable to keep his balance and used his arms and kept putting his foot down.
4. The next test administered was the PBT. The defendant blew a .268. The defendant was placed under arrest and transported to Provost Marshal Office for processing. The defendant was placed in an interview room and Field Interview Sheet was completed. During the taking of the information, the defendant's speech became more slurred and the smell of alcohol became strong in the room. The defendant was advised of his rights which he invoked. The defendant consented participate in the Datamaster Breathylzer. The test was administered by SGT Crespo and the test was administered at 3:10 a.m., and the defendant registered with a BAC of .19.

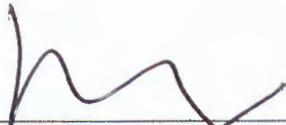
5. The defendant was processed and issued a United States District Court Violation Driving while Intoxicated (8005688/SY10).

WHEREFORE, deponent prays that the above-named defendant be imprisoned or bailed, as the case may be.



BENJAMIN DURHAM
Court Liaison

Sworn to before me this
30th day of April, 2021



HONORABLE MARTIN R. GOLDBERG
United States Magistrate Judge
Southern District of New York